

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : FINAL DECISION AND ORDER  
DAVID E. ECKERLE, M.D., :  
RESPONDENT. : **ORDER 0008304**

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Division of Legal Services and Compliance Case No. 20 MED 284

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

David E. Eckerle, M.D.  
Madison, WI 53717

Wisconsin Medical Examining Board  
P.O. Box 8366  
Madison, WI 53708-8366

Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190  
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Medical Examining Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Respondent David E. Eckerle, M.D., (Year of Birth 1965) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 33624-20, first issued on August 19, 1992, with registration current through October 31, 2023. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Madison, Wisconsin 53717.

2. At all times relevant to this proceeding, Respondent practiced as a primary care physician at a clinic located in Madison, Wisconsin (Clinic).

3. On July 22, 2020, the United States Department of Justice Drug Enforcement Administration (DEA) issued an Order to Show Cause and Immediate Suspension immediately suspending and seeking to revoke Respondent's DEA Certificate of Registration.

4. On January 25, 2021, Respondent entered into a Memorandum of Agreement with the DEA under which Respondent surrendered his DEA Certificate for cause and acknowledged that he issued controlled substance prescriptions to five patients between December 7, 2015, and April 7, 2020, in violation of federal and state laws pertaining to controlled substances (2021 MOA).

5. Pursuant to the 2021 MOA, Respondent was not permitted to apply for a new DEA registration until on or after July 23, 2022.

6. On August 8, 2022, Respondent submitted an application for DEA Registration as a Practitioner in Schedules II-V.

7. On August 22, 2022, Respondent entered into a Memorandum of Agreement (2022 MOA) with the DEA under which required Respondent, *inter alia*:

- a. To abide by all federal, state, and local laws and regulations relating to controlled substances and to only issue controlled substance prescriptions when acting in the usual course of professional practice to treat legitimate medical conditions and in accordance with federal regulations including, but not limited to Title 21, Code of Federal Regulations, §§ 1306 and 1311.
- b. Not consume or possess any controlled substances that are not prescribed or dispensed to him by another licensed physician acting in the usual course of professional practice to treat legitimate medical conditions.
- c. Not procure, order, or stockpile any controlled substances in Schedules II-V under Respondent's or another individuals' or hospitals' DEA registration.
- d. Not administer or dispense any controlled substances in Schedules II-V outside of a hospital/clinic setting.
- e. Not treat any patient for chronic pain.
- f. Not issue any individual patient a prescription for Schedule II controlled substances on more than one occasion for the same diagnosis.
- g. Not issue any individual patient a prescription for Schedule II controlled substances in excess of seven days.
- h. Advise any future employer of the 2022 MOA if employed in a capacity where controlled substances may be prescribed.

- i. For a period of five years from the issuance of a new DEA certificate of registration, allow DEA personnel to enter his registered location at any time during business hours without prior notice to verify compliance with this Agreement.
- j. For a period of five years from the issuance of a new DEA Certificate of Registration:
  - i. provide the DEA office with a quarterly report that provides the following: each patient's name and address to whom Respondent prescribed opioids, the amount and dosage of opioids prescribed, the date issued and duration of the prescription, and diagnosis code.
  - ii. have either a supervising physician associated with his employer or an independent physician review, on an annual basis, 10% of the patients Respondent treated with opioids in the previous year, not to exceed ten patients.
  - iii. notify the DEA office prior to obtaining employment at another (additional) hospital or clinic (including self-employment), prior to attempting to transfer his DEA Certificate of Registration to another address, prior to submitting an application for a new registration within the State of Wisconsin, and/or prior to submitting an application for a new registration in any other state.

8. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

#### CONCLUSIONS OF LAW

1. The Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 448.02(3) and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined in Wis. Admin. Code § Med 10.03(3)(c) by having any credential pertaining to the practice of medicine and surgery or any act constituting the practice the practice of medicine and surgery become subject to adverse determination by any agency of this or another state, or by any federal agency or authority.

3. As a result of the above violations, Respondent is subject to discipline pursuant to Wis. Stat. § 448.02(3).

#### ORDER

1. The attached Stipulation is accepted.
2. The license and registration issued to Respondent to practice medicine and surgery (license number 33624-20) is LIMITED as follows:

- a. Respondent shall comply with all terms and conditions of the 2022 MOA;
  - b. Respondent shall notify the Board within 48 hours of any changes to the terms and conditions of the 2022 MOA;
  - c. Respondent shall notify the Board within 48 hours of any changes to Respondent's DEA registration;
  - d. Respondent shall provide a copy of all notifications and documents, including but not limited to reports and physician reviews, submitted pursuant to the 2022 MOA, to the Department Monitor within 48 hours of submission to the DEA;
  - e. Respondent shall provide a copy of this Order, and any subsequent order modifying this original Order, immediately to all present employers, to any hospital at which he has privileges or at which he applies for privileges, and to any prospective employer when Respondent applies for employment as a healthcare provider currently or in the future. Within fourteen (14) days from the date of this Order, including any subsequent order modifying this original Order, Respondent shall provide the Department Monitor with written acknowledgment from the employer that a copy of this Order, and any subsequent order modifying this original Order, have been received and that the restrictions will be accommodated.
3. Any violation of the terms and conditions of the 2022 MOA is a violation of this Order.
4. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$2,077.00.
5. Any requests, petitions, payments of costs (made payable to Department of Safety and Professional Services), and other information required by this Order shall be submitted to:

Department Monitor  
Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190, Madison, WI 53707-7190  
Telephone (608) 266-2112; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dpsmonitoring.wi.gov>.

6. In the event Respondent violates any term of this Order, Respondent's license and registration (number 33624-20) or Respondent's right to renew his license and registration to practice medicine and surgery in the state of Wisconsin, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

7. This Order is effective on the date of its signing.

WISCONSIN MEDICAL EXAMINING BOARD

By: Stephen A. Wasserman, MD  
A Member of the Board

12/21/22  
Date

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

DAVID E. ECKERLE, M.D.,  
RESPONDENT.

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STIPULATION

**ORDER 0008304**

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Division of Legal Services and Compliance Case No. 20 MED 284

Respondent David E. Eckerle, M.D., and the Division of Legal Services and Compliance, Department of Safety and Professional Services, stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent is represented by Attorney Patrick Knight.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Medical Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not

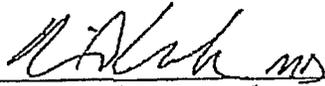
accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order will be reported as required by the National Practitioner Databank (NPDB) Guidebook and as otherwise required by any licensure compact or any other state or federal law.

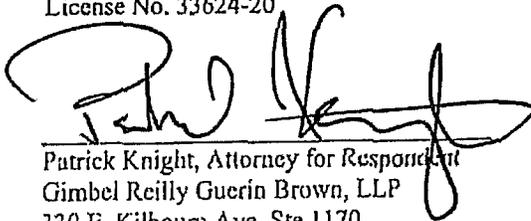
9. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



David E. Eckerle, M.D., Respondent  
Madison, WI 53717  
License No. 33624-20

11/28/22

Date



Patrick Knight, Attorney for Respondent  
Gimbel Reilly Guerin Brown, LLP  
330 E. Kilbourn Ave, Ste 1170  
Milwaukee, WI 53202

11/28/22

Date



Colleen Meloy, Prosecuting Attorney  
Department of Safety and Professional Services  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

November 29, 2022

Date